

REMARKS / ARGUMENTS

This amendment is submitted in full response to the outstanding Office Action dated June 17, 2005 wherein claims 1, 2, 4 through 6 and 8 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 11 (which depends on claim 1) of U.S. Patent No. 6,430,940 B1 to Applicant herein. Also, claims 3 and 7 stand objected as being dependent upon a rejected base claim.

Applicant submits herewith a Terminal Disclaimer for U.S. Patent No. 6,430,940 B1, which disclaims the terminal portion of any patent granted on this application, which would extend beyond the expiration date of the above indicated patent. Accordingly, the outstanding rejection of claims 1, 2, 4 through 6 and 8, as well as the objection to claims 3 and 7, of the subject application, based on the doctrine of obviousness type double patenting are believed to be overcome.

In addition, minor changes have been made to the wording of the specification in order to overcome any inconsistencies and informalities originally contained therein. Care was taken not to add new subject matter.

Based on the above, this application is believed to be in clear condition for allowance and such action is respectfully solicited.

Application No. 10/662,136
Amdt. dated September 13, 2005
Reply to Office Action dated June 17, 2005

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Respectfully submitted,
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By: 

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Reg. No. 37,884

Dated: 9/13/05



PTO/SB/26 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
1.839-B.03

In re Application of: Alejandro J. Gonzalez

Application No.: 10/662,136

Filed: September 12, 2003

For: SPECIAL EFFECTS CLOUD GENERATION SYSTEM

The owner*, Alejandro J. Gonzalez, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,430,940 B1 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 37,884


Signature9/17/05
DatePeter A. Matos
Typed or printed name(305) 858-8000
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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